

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WARREN GREEN,

Plaintiff,

- against -

OFFICER RODGERS and DEPUTY LEMON,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING
REPORT AND RECOMMENDATION
15-CV-2260 (RRM) (PK)

Plaintiff Warren Green, *pro se*, commenced this action pursuant to 42 U.S.C. § 1983 against defendants identified in the answer as Corrections Officer Robert Rodgers and Warden Charlton Lemon (collectively, the “Defendants”). (*See* Compl. (Doc. No. 1) at 4–5; Answer (Doc. No. 18) at 1.) Green alleges that on January 3, 2015 and January 7, 2015, while he was housed at the Otis Bantum Correctional Center (the “OBCC”) on Rikers Island, Green requested access to his asthma pump due to problems breathing after fires broke out at the OBCC. (*See* Compl. at 4.) Green claims that Defendants denied him access to the medication, and in so doing, violated his civil rights. (*See id.*)

On June 1, 2016, Defendants filed a motion to dismiss Green’s complaint for failure to prosecute, pursuant to Federal Rule of Civil Procedure (“Rule”) 41(b). (*See* Defs.’ Mot. (Doc. No. 34).) On June 21, 2016, the magistrate judge assigned to this case, the Honorable Peggy Kuo, reminded Green that if he failed to comply with his discovery obligations by July 20, 2016, she would recommend that this action be dismissed for failure to prosecute. (*See* Min. Entry 6/21/16 (Doc. No. 38).)

On March 15, 2017, Judge Kuo issued a Report and Recommendation (“R&R”), a copy of which was mailed to Green and his wife via Federal Express, recommending that Green’s

action be dismissed without prejudice pursuant to Rule 41(b). (*See* R&R (Doc. No. 52).) Judge Kuo reminded the parties that, pursuant to Rule 72(b), any objections to the R&R must be filed by March 30, 2017. (R&R at 14.) The date to file objections has passed, and no party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is hereby ORDERED that Green's action be dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The Clerk of Court is respectfully directed to enter judgment, mail a copy of this Memorandum and Order and the accompanying judgment to plaintiff Warren Green, *pro se*, note the mailing on the docket, and close this case.

SO ORDERED.

Roslynn R. Mauskopf

Dated: Brooklyn, New York
March 31, 2017

ROSLYNN R. MAUSKOPF
United States District Judge